Attorney's Docket No. 042933/319992 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.:	09/753,844	Confirmation No.: 3228
Applicant(s):	Meyers et al.	
Filed:	January 3, 2001	
Art Unit:	2174	
Examiner:	Thanh T. Vu	
Title:	STATISTICAL METERING AND FILTERING OF CONTENT VIA PIXEL-BASED METADATA	

Docket No.: 042933/319992
Customer No.: 00826

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF UNDER 37 CFR § 41.37

This Appeal Brief is filed pursuant to the Notice of Appeal filed August 9, 2007 and in response to the Notice of Panel Decision from Pre-Appeal Brief Review dated December 11, 2007.

1. ***Real Party in Interest.***

The real party in interest in this appeal is Nokia Corporation, the assignee of the above-referenced patent application.

2. ***Related Appeals and Interferences.***

There are no related appeals and/or interferences involving this application or its subject matter.

3. ***Status of Claims.***

The present application currently includes claims 1, 3, 5 and 14-29, which all stand rejected. Claims 2 and 4 are canceled and claims 6-13 are withdrawn. The rejection of claims 1, 3, 5 and 14-29 are being appealed.

4. ***Status of Amendments.***

There are no unentered amendments in this application.

5. ***Summary of Claimed Subject Matter.***

Independent claim 1 is directed to a system (e.g., FIGS. 1A and 1B) for providing discretionary viewing control in displaying image data. The system of claim 1 includes a display (e.g., display 120 of FIGS. 1A & 2) for displaying image data (element 200 of FIG. 2) that comprises a plurality of pixels (e.g., pg. 13, lines 20-22 & pixels 125 of FIG. 2). The system includes an integrated circuit (e.g., host computer 110 of FIG. 1A) in connection with the display for processing the image data (e.g., pg. 12, lines 8-13). For each of the plural pixels (e.g., pixels 125 of FIG. 2), the image data comprises at least first and second portions of image data that are linked together (pg. 14, lines 4-7). The first portion includesg payload data (e.g., bits 0-39 of FIG. 2) and the second portion includes metadata (e.g., additional set 212 of bits, i.e., Metadata of FIG. 2) (e.g., pg. 14, lines 1-6). The payload data comprises content for the pixel (e.g., pg. 14, lines 1-4) and the metadata (e.g., Metadata 212 of FIG. 2) comprises a value (e.g., bit 40 of FIG. 2) selected from a predefined set of values (e.g., bits 40-47 of FIG. 2 & pg. 21, lines 8-22) which classifies the pixel independently from the other pixels (e.g., pg. 14, lines 4-6 & pg. 17, lines 17-21). Because each of the processable pixels are individually classified according to a particular metadata value selected from the predefined set of values, the integrated circuit (e.g. host computer 110 of FIG. 1A) is able to perform operations on individual pixels based on their metadata (e.g., pg. 14, line 22, pg. 15, line 1, pg. 17, line 21 & pg. 18, line 1). The integrated circuit comprises a filter (e.g., filter 149 of FIG. 1A) for obscuring the content of only a plurality of pixels that has a metadata value that exceeds a discretionary threshold value without preventing the display of the content of the remaining plurality of pixels that does not have a metadata value that exceeds the discretionary threshold value (e.g., pg. 18, lines 1-21).

Independent claim 3 is directed to a method for providing discretionary viewing control in displaying image data. The method comprises providing a display (e.g., display 120 of FIGS. 1A & 2) comprising a plurality of pixels (e.g., pixels 125 of FIG. 2 & pg. 13, lines 20-22). The method further comprises receiving image data (e.g., element 200 of FIG. 2 & pg. 13, lines 20-22). For each of the plural pixels (e.g. pixels 125 of FIG. 2), the received image data (e.g., element 200 of FIG. 2) comprises at least first and second portions of image data that are linked

together (pg. 14, lines 4-7). The first portion includes payload data (e.g., bits 0-39 of FIG. 2) and the second portion includes metadata (e.g., metadata 212 of FIG. 2). The payload data comprises content for the pixel (e.g., pg. 14, lines 1-4) and the metadata (e.g., Metadata 212 of FIG. 2) comprises a metadata value (e.g., bit 40 of FIG. 2) selected from a predefined set of values (e.g., bits 40-47 of FIG. 2 & pg. 21, lines 8-22) which classifies the pixel independently from the other pixels (e.g., pg. 14, lines 4-6 & pg. 17, lines 17-21) The method further comprises supplying the received image data to an integrated circuit (e.g., host computer 110 of FIG. 1A) in connection with the display (e.g., display 120 of FIG. 1A & FIG. 2) and processing (e.g., CPU 115 of FIG. 1A & pg. 12, lines 9-10) the content for each respective pixel based on the metadata value of each respective pixel. The method also comprises obscuring (e.g., filter 149 of FIG. 1A) the content of only a plurality of pixels that has a metadata value exceeding a discretionary threshold value, and displaying the content of the remaining plurality of pixels that do not have a metadata value exceeding the discretionary threshold value (e.g., pg. 18, lines 1-21).

Independent claim 14 is directed to an image data frame (e.g., element 200 of FIG. 2) to be processed in an integrated circuit (e.g., host computer 110 of FIG. 1A) and displayed pixel-wise. For each of a plurality of pixels (e.g., pixels 125 of FIG. 2) in the image data frame, at least first and second portions of image data are linked together, with the first portion comprising payload data (e.g., bits 0-39 of FIG. 2) and the second portion comprising metadata (e.g., additional set 212 of bits, i.e., Metadata of FIG. 2) (e.g., pg. 14, line 1-6). The payload data comprises content of the pixel independently, (e.g., pg. 14, lines 1-6) and said metadata comprises a metadata value (e.g., bit 40 of FIG. 2) selected from a predefined set of values, (e.g., bits 40-47 of FIG. 2 & pg. 21, lines 8-22) which classifies the pixel independently from the other pixels (e.g., pg. 14, lines 4-6 & pg. 17, lines 17-21). Because each pixel is individually classified according to a particular metadata value selected from the predefined set of values, the content of only a plurality of pixels that has a metadata value that exceeds a discretionary threshold value is obscured from the user's view without preventing the display of the content of the remaining plurality of pixels that does not have a metadata value that exceeds the discretionary threshold value (e.g., pg. 18, lines 1-21).

Independent claim 19 is directed to a system (e.g., FIGS. 1A & 1B) for displaying visual objects comprised of pixels (e.g., pixels 125 of FIG. 2). The system comprises a processing means (e.g., host computer 110 of FIG. 2, & pg. 12, lines 8-13) for receiving an image data

frame (e.g., element 200 of FIG. 2) comprising a plurality of pixels (e.g., pixels 125 of FIG. 2) which, in turn, comprise one or more visual objects. A plurality of contiguous bits in the image data frame (e.g., bits 0-39 of FIG. 2) comprise pixel data for a single pixel. The pixel data comprise a content field (e.g., Content field of FIG. 2) and a metadata field (e.g., Metadata 212 of FIG. 2) for the single pixel. The metadata field comprises a value (e.g., bit 40 of FIG. 2) from a predefined set of metadata values, (e.g., bits 40-47 of FIG. 2 & pg. 21, lines 8-22). The metadata value indicates that the single pixel is part of a visual object within a particular category (e.g., pg. 17, lines 17-21). The processing means (e.g., host computer 110 of FIG. 1A) comprises means (e.g., CPU 115 of FIG. 1A & pg. 12, lines 9-13) for identifying pixels which comprise a visual object by their metadata fields (e.g., pg. 14, line 22, pg. 15, line 1, pg. 17, line 21 & pg. 18, line 1). Because the pixels comprising an individual visual object can be identified within the image data frame, (e.g., element 200 of FIG. 2) certain operations can be performed by the processing means (e.g., host computer 110 of FIG. 1A) only on the pixels forming an individual visual object separate from the pixels forming the remaining visual objects in the visual field (e.g., pg. 18, lines 1-21).

Independent claim 29 is directed to a computer-readable medium (e.g., memory 140 of FIG. 1A) for providing discretionary viewing control in displaying image data (element 200 of FIG. 2). The computer-readable medium is encoded with a computer program. The computer program comprises program code for providing a display (e.g., display 120 of FIGS. 1A & 2) comprising a plurality of pixels (e.g., pixels 125 of FIG. 2) and program code for receiving image data (e.g., element 200 of FIG. 2) The computer program also comprises program code (e.g., pg. 12, lines 21-22 & pg. 13, line 1) for supplying the received image data to an integrated circuit (e.g., host computer 110 of FIG. 1A) in connection with the display (e.g., display 120 of FIGS. 1A & 2) and program code for processing the content for each respective pixel based on the metadata value of each respective pixel. The computer program also includes program code for obscuring (e.g., filter 149 of FIG. 1A & e.g., pg. 12, lines 19-21) the content of only a plurality of pixels that has a metadata value exceeding a discretionary threshold value, and program code for displaying the content of the remaining plurality of pixels that do not have a metadata value exceeding the discretionary threshold value (e.g., pg. 18, lines 1-21). For each of the plural pixels (e.g., pixels 125 of FIG. 2), the received image data (e.g., element 200 of FIG. 2) comprises at least first and second portions of image data that are linked together (e.g., pg. 14, lines 1-7). The

first portion includes payload data (e.g., bits 0-39 of FIG. 2) and the second portion includes metadata (e.g., Metadata 212 of FIG. 2, pg. 14, lines 1-8). The payload data comprises content for the pixel (e.g., pg. 14, lines 1-4) and the metadata comprises a metadata value (e.g., bit 40 of FIG. 2) selected from a predefined set of values (e.g., bits 40-47 of FIG. 2 & pg. 21, lines 8-22) which classifies the pixel independently from the other pixels (e.g., pg. 14, lines 6-7).

6. ***Grounds of Rejection to be Reviewed on Appeal.***

(i) Claims 1, 3, 14, 15, 19-23 and 25-29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lynn (U.S. Patent No. 6,595,859; hereinafter "Lynn"), Humes (U.S. Patent No. 5, 996,011; hereinafter "Humes"), Swift (U.S. Patent No. 6,895,111; hereinafter Swift) and Crawford (U.S. Patent No. 6,781,608; hereinafter Crawford).

(ii) Claim 5 stands rejected under 35 U.S.C. § 103(a) as being unpatenable of Lynn, Humes, Swift, Crawford and Reilly (U.S. Patent No. 6,580,422; hereinafter "Reilly")

(iii) Claims 16, 17 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lynn in view of Humes, Swift, Crawford and Blumenau (U.S. Patent No. 6,108,637; hereinafter "Blumenau")

(iv) Claim 18 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Lynn, in view of Humes, Swift, Crawford and Applicant's Admitted Prior Art (AAPA)

7. ***Argument.***

A. <u>Claims 1, 3, 14, 15, 19-23 and 25-29 are patentable over Lynn, Humes, Swift and Crawford</u>

As a brief summary, Applicant respectfully submits that the cited references, alone or in combination, do not teach or suggest the claims of the present application. Applicant submits that, in particular, Lynn, Humes, Swift and Crawford, either alone or in combination, fail to teach or suggest 1) an integrated circuit for processing image data, wherein, for each of the plural pixels, said image data comprises at least first and second portions of image data that are linked together, the first portion including payload data and the second portion including metadata, wherein the payload data comprises content for the pixel and the metadata comprises a value selected from a predefined set of values which classifies the pixel independently from the other

pixels and 2) the integrated circuit comprising a filter for obscuring the content of only a plurality of pixels that has a metadata value that exceeds a discretionary threshold value without preventing the display of the content of the remaining plurality of pixels that does not have a metadata value that exceeds the discretionary threshold value.

The claimed invention as recited by independent claims 1, 3, 14, 19 and 29 provides a system, method, apparatus, system and computer readable medium, respectively, for providing discretionary viewing control in displaying image data. Independent claim 1, for example, recites, "[a] system ... comprising," *inter alia*, "an integrated circuit ... processing ... image data, wherein, for each of the plural pixels, said *image data comprises ... first and second* portions ... *linked together*." "[T]he *first portion* including *payload data* and the *second portion* including *metadata*, wherein ... payload data comprises content for the pixel and ... *metadata comprises a value* selected from a predefined set of values *which classifies the pixel independently from ... other pixels, ... each of the ... pixels are individually classified* according to a *particular metadata value* selected from the ... set of values ..." "[S]aid integrated circuit comprising: *a filter* for *obscuring the content* of *only* a plurality of pixels that has *a metadata value* that *exceeds a discretionary threshold* value without preventing the display of the content of the remaining plurality of pixels that *does not have a metadata value* that exceeds the discretionary threshold value."

Appellants submit that the combination of Lynn, Humes, Swift and Crawford does not teach or suggest all of the recitations of claim 1. In contrast to claim 1, Lynn is directed to an Internet marketing game. In this regard, Lynn merely discloses that a user/player is encouraged to click on a pixel or image area of the game page and that this pixel is "compared against stored x-y coordinates for a winning pixel ... location(s)" so that a player can win a prize "[i]f the location of the selected pixel ... matches the pixel ... location randomly selected and stored." (Col. 1, lines 53-61 of Lynn & Abstract)

In the Advisory Action, the Examiner continues to assert that Lynn discloses "a plurality of pixels having a first portion ... including payload data and the second portion including metadata." The Examiner makes this assertion allegedly because column 1, lines 50-67, column 3, lines 30-41 and column 4, lines 10-24 of Lynn allegedly discloses "a prize available at a particular coordinate (pixel)" corresponds to the claimed "payload data" and that "x-y coordinates for winning [a] pixels" corresponds to the claimed "metadata." (See pg. 2 of the

Advisory Action) Appellants respectfully disagree and submit that the combinations of references are being given credit for more than they actually teach. Column 1, lines 43-67 of Lynn in contrast to claim 1, at best, discloses that Lynn relates to an Internet marketing game for promoting access to a web site which hosts the game and for keeping potential consumers occupied on the web site for exposure to several different advertising spaces. Lynn explains that the "game is centered around 'a point and click' system in which a ... display is provided which includes an image made up of a large number" of pixels. Lynn further discusses that a player may move a cursor around the image and randomly select a pixel or image area on the image. "The x-y coordinate location of the pixel or image area is then compared against stored x-y coordinates "for winning pixel or image area location(s)." Column 3, lines 7-25 of Lynn, at best, explains that "[t]he rules of the game dictate that only pixel or image areas selected within the image boundaries can be [a] winning" location(s) "e.g. [a] tree foliage."

Column 4, lines 10-24 of Lynn, at best, describes that if a request is a game request "in the form of a code including a selected (x,y) pixel or image area coordinate location on the tree, the specific game situation for which the request was generated" is invoked (See FIG. 1b of Lynn) and also explains that "the selected pixel or image area location is compared against the winning pixel or image area locations for the prize list for that time period of order to determine" if the selection is a winner." (emphasis added)

Nowhere in the cited portion of Lynn, or any other portion of Lynn, is there any teaching or suggestion that "*each* of the *plural pixels*," of the internet marketing game of Lynn, comprise at least first and second portions of image data that are linked together, the *first portion* including *payload* data ... wherein said *payload data* comprises *content* for the pixel. As noted above the Examiner relies on a "prize ... at a ... coordinate (pixel)" as corresponding to the claimed payload data. Contrary to the Examiner's assertion, Lynn does not teach or suggest any pixel comprising any data relating to a prize (alleged payload data) which comprises content for the pixel, as required by claim 1. In fact, Lynn does not disclose any data, much less payload data, of a pixel that identifies a prize. Rather, the pixel selected by the player is compared against stored x-y coordinates to determine if the selected pixel is a winning pixel based on a prize list for the time period. Lynn does not disclose that the stored x-y coordinates which indicate a winner are actually stored in a respective pixel either. As known to those skilled in the art, the "stored x-y coordinates" of Lynn may be stored in a server or the like and need not be stored in

the respective pixel. Since stored x-y coordinates identify if the player is a winner and a prize list is referred to determine a winning pixel, there is simply no mention, teaching or suggestion in Lynn relating to any pixel that comprises data relating to a prize (alleged payload data) which "comprises content for the pixel," as required by claim 1. Given that the data associated with a prize based on a selected x-y coordinate may actually be stored on a server external to any data within the respective pixel and given the lack of any mention, teaching or suggestion in Lynn to the pixels disclosed therein including any payload data that comprises content for the pixel, Lynn alone or in combination is incapable of teaching or suggesting "each of the plural pixels ... including payload data ... wherein said payload data comprises content for the pixel," as required by claim 1.

Moreover, Appellants note that Lynn does not disclose that the prize (alleged payload data) comprises *content for the pixel*, (as claimed) but rather, at best, identifies the prize (e.g., $20). (See Col. 5, line 43 of Lynn explaining that prize may consist of "$20") Additionally, claim 1 recites that "*each* of the *plural pixels* ... comprises ... payload data [which] comprises content for the pixel." Lynn in contrast to claim 1 does not teach or suggest that each pixel is a winning pixel corresponding to a prize. Instead, Lynn, at best, discloses that an "x-y coordinate location of a predetermined winning pixel," i.e., a single pixel, corresponds to a winning pixel. (Col. 1, lines 56-57) A single winning pixel, or number of pixels less than all of the pixels in an image, that is selected in an image is not tantamount to each of the pixels of the image and as such each of the pixels of Lynn does not comprise a prize (alleged payload data) which comprises content for the pixel, as required by claim 1.

Furthermore, claim 1 recites that "*metadata* comprises a *value selected* from *a predefined set of values* which *classifies the pixel independently* from *other pixels*." As noted above, on pg. 2 of the Advisory Action, the Examiner cites to and relies on column 1, lines 50-67 and column 4, lines 10-24 of Lynn for the proposition that Lynn's disclosure of the "x-y coordinates as the winning pixels" corresponds to the claimed "metadata." Appellants respectfully disagree. Nowhere in the cited portion of Lynn, alone or in combination with Humes, Swift and Crawford, is there any mention, teaching or suggestion that the "x-y coordinates for [a] winning pixel" (alleged metadata) "comprises *a value* selected from a predefined *set of values* which *classifies the pixel* independently from the other pixels," as required by claim 1. The Examiner merely

makes the sweeping assertion that "each winning pixel[] is classified differently from other pixels (non-winning pixel)."

Even if this assertion is true, (an assertion with which Appellants disagree) the combination still does not teach or suggest the features of claim 1. Lynn, alone or in combination, at best, discloses that the x-y coordinate location of a selected pixel or image area of the internet marketing game is compared against stored x-y coordinates for winning pixel or image area locations(s). (Col. 1, lines 43-59 of Lynn) There is no mention, teaching or suggestion in Lynn relating to any pixel containing any value which classifies the pixel independently from other pixels and there certainly is no teaching or suggestion relating to x-y coordinates (alleged metadata) containing a value selected from a predefined set of values, as claimed. Rather, Lynn does simply does not contemplate selection of any value from a set of values that classifies the pixel independently from the other pixels. Indeed, "fig. 3," col. 1, lines 50-67," "col. 3, lines 14-25" and "col. 4, lines 10-24" cited by the Examiner on pg. 2 of the Advisory Action and indeed all of Lynn is entirely silent regarding each of the pixels disclosed therein comprising "metadata [which] comprises a value selected from a predefined set of values which classifies the pixel independently from other pixels," as claimed. Lynn is altogether silent regarding the makeup of the pixels therein and does not contemplate pixel classification based on values in the pixel. For at least the foregoing reasons, Lynn, either alone or in combination with Humes, Swift and Crawford do not teach or suggest all of the features of claim 1.

The final Office Action and the Advisory Action correctly concedes that Lynn by itself is deficient but relies on Humes to make up for some of the deficiencies of Lynn and asserts that Humes in combination with Lynn "teaches a filter for blocking the content of only a plurality of pixels that has a metadata value that exceeds a discretionary threshold value without preventing the display of the content of the plurality of pixels that does not have a metadata value that exceeds the discretionary threshold value." (See pg. 3 of Final Office Action) Appellants again disagree.

On pg. 3 of the Advisory Action, the Examiner continues to rely on "col. 3, lines 5-9" of Humes, in combination with Lynn, Swift and Crawford, as teaching these features of claim 1 and asserts that "Humes teaches a filter for blocking the content of only a plurality of pixels that are forbidden" and "col. 3, lines 5-9 shows certain portions of the web page are being blocked." The Advisory Action also asserts that "[i]t is noted that the displayed web pages are made up of a

plurality of pixels," [t]herefore, the portions of the web page that are being blocked can contain a plurality of pixels." Even if it were assumed for the sake of argument that this assertion is true (an assertion with which Appellants disagree), Humes alone or in combination with Lynn, Swift and Crawford still does not teach or suggest all of the features of claim 1. Independent claim 1 further recites, *inter alia*, an integrated circuit comprising a filter for obscuring the content of only a plurality of *pixels that has a metadata value that exceeds a discretionary threshold value* without preventing the display of the content of the remaining plurality of *pixels that does not have a metadata value that exceeds the discretionary threshold value.*

The cited passage and indeed all of Humes, at best, discloses word based and text-based filtering which is not tantamount to "a filter for obscuring the content of only a plurality of *pixels* that *has a metadata value* that *exceeds* a discretionary *threshold value* ...," as required by claim 1. Humes merely discloses filtering which blocks the words and text of a web-page from being sent and displayed to a user's computer or alternatively blocks the web page altogether, if a final score for the web page exceeds a threshold. Nowhere in the cited passage of Humes, alone or in combination with Lynn, Swift and Crawford, is there any teaching or suggestion pertaining to any pixel having a metadata value and there certainly is no teaching or suggestion relating to a pixel that has a metadata value that may exceed a threshold value either, as required by claim 1. Col. 3, lines 50-51 of Humes, at best, discloses that "each word in the dictionary [i.e., not the pixels of the web page] has a number of variables" which may indicate whether to replace the word on the web page with a ... replacement filler (e.g. "replac[ing] objectionable word 'darn' for 'damn'"—Col. 7, lines 51-53 of Humes) or an innocuous filler (e.g., "- - -"), irrespective of any metadata value of a pixel exceeding a threshold value. Col. 7, lines 55-59 of Humes explains that "if the total score of the web page exceeds the predetermined threshold, e.g., 50, then the entire page is replaced with a 'FORBIDDEN' page." Humes, at best, discloses a total score of the web page is compared to a predetermined threshold and not a metadata value of each of a plurality of pixels. A filter blocking portions of a web page wherein the web page consists of a plurality of pixels simply does not teach or suggest, "a filter ... obscuring the content of *only* a plurality of *pixels* that *has* a *metadata value* that *exceeds* a discretionary *threshold value*," as required by claim 1. In other words, blocking portions of a web page based on a total score does not teach or suggest blocking one or more specific pixels having individual values that exceed a threshold value. Humes, alone or in combination with Lynn, Swift and Crawford is simply

altogether silent regarding any mention of a pixel having any value, much less a metadata value, and that based on a value of the pixel exceeding a threshold a filter obscures the content corresponding to respective pixels, as required by independent claim 1. Blocking portions of a web page based on a total score is simply not tantamount to obscuring the content of only a plurality of pixels that has a metadata value that exceeds a discretionary threshold value without preventing the display of the content of the remaining plurality of pixels that does not have a metadata value that exceeds the discretionary threshold value, as required by independent claim 1. For this additional reason, the combination of Lynn, Humes, Swift and Crawford is deficient and does not teach or suggest all of the features of claim 1.

The final Office Action and the Advisory Action correctly concedes that Lynn and Humes are deficient but continues to rely on Swift to make up for some of the deficiencies of Lynn and Humes. On pg. 2 of the Advisory Action, the Examiner continues to rely on column 3, lines 10-47, FIGS. 2 and 3, threshold 190 of Swift, in combination with Lynn, Humes and Crawford as teaching features of claim 1. In particular, on pg. 2 of the Advisory Action, the Examiner asserts that "Swift teaches a filter for detecting the content of a plurality of pixels that has a metadata value that exceeds a discretionary threshold value." Appellants again disagree. Column 3, lines 10-47 of Swift, at best, discloses a "computer system ... with ... associated programming to evaluate spectral components of each pixel to classify each pixel as ... not representing human skin" (NS) "or ... possibly representing human skin" (PS). Given that Swift discloses a program of a computer system that evaluates spectral components of each pixel in order to classify each pixel "based on the application of rules," Swift, either individually or in combination with Lynn, Humes and Crawford, simply does not teach or suggest that each pixel has metadata comprising *a value* which classifies the pixel independently from other pixels, and there certainly is no teaching or suggestion, relating to each pixel, disclosed therein having metadata comprising *a value* that exceeds a *discretionary threshold value*, as claimed. Rather, FIGS. 2-3 of Swift merely relate to a "WEB PAGE EVALUATION" routine 130 and a "GRAPHIC IMAGE FILE ANALYSIS" routine 160, respectively. Column 8, lines 35-43 of Swift, which relates to FIG. 3, explains that the spectral components of a graphic image are evaluated by the routine 160, i.e., program to classify each pixel as a 'NS" pixel or a "PS" pixel. Any classification of pixels in Swift is generated on the basis of a program and not on the basis of any pixels that contain metadata having a value for classification and another value that is

compared to a threshold value. As known to skilled artisans, spectral components of a pixel do not disclose metadata having a value that classifies a pixel and a value that is compared to a threshold value either.

Column 3, lines 23-30 of Swift describes that "the spectral components of each pixel are expressed as a set of numbers, with each number having an associated numeric value" and explains that "using an RGB color model the spectral components of each pixel are expressed as a set of red, green and blue (R, G, B) components corresponding to the respective amounts of red, green and blue in each pixel." (emphasis added) As known to skilled artisans, at least pg. 14, lines 1-7 of the specification and FIG. 2 of the present application demonstrates that the RGB bits of pixels are not the same as pixels having a metadata value for classification of a pixel and based on this value exceeding a threshold value having a filter that obscures content corresponding to the respective pixels, as required by claim 1. Rather, metadata values of a pixel for classification of a pixel are different from spectral components such as RGB data. Additionally, Appellants note that column 10, lines 17-65 of Swift which relates to FIG. 3, at best, discloses that the threshold 190 (alleged discretionary threshold value) of Swift is being compared to the results of a statistical analysis 180 and is not being compared to a metadata value of a pixel to determine if the metadata value of the pixel "exceeds a discretionary threshold value," as required by claim 1. In view of the foregoing, Lynn, Humes, Swift and Crawford, alone or in combination, are deficient and do not teach or suggest the features of claim 1 for this additional reason.

On pg. 3 of the final Office Action, the Examiner relies on Crawford as disclosing a "technique for obscuring the content of the image data." Even assuming *arguendo* (an assumption with which Appellants expressly disagree) that Crawford discloses obscuring content of an image, the combination still does not teach or suggest all of the features of claim 1. Crawford does not teach or suggest "an integrated circuit ... for processing ... image data, wherein, for *each of the plural pixels*, said image data comprises at least first and second portions of image data that are linked together, the first portion including payload data and the second portion including metadata, wherein said *payload data comprises content for the pixel* and said *metadata comprises a value selected from a predefined set of values* which *classifies the pixel* independently *from the other pixels*" and "obscuring ... a plurality of *pixels* that *has a metadata value that exceeds a discretionary threshold value* without preventing the display of the content

of the remaining plurality of pixels *that does not have a metadata value* that *exceeds the discretionary threshold value* (as required by claim 1) and is not cited for such. In this regard, Crawford does not make up for the deficiencies of Lynn, Humes and Swift either alone or in combination.

To establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a) the Examiner must show that the prior art references, when combined, teach or suggest all of the claim recitations. (See MPEP § 2143). Here, as demonstrated above, the prior art references, even when combined simply do not teach or suggest all of the features of claim 1.

Thus, for at least all of the foregoing reasons, the combination of Lynn, Humes, Swift and Crawford is deficient and does not teach or suggest all of the features of independent claim 1. As such, it is respectfully submitted that independent claim 1 is patentable over the references either individually or in combination. Since claims 3, 14, 19 and 29 contain features that are analogous to, though not necessarily coextensive with, the features recited in claim 1, Appellants submits that claims 3, 14, 19 and 29 are patentable at least for reasons analogous to those submitted above for independent claim 1.

Claims 16 and 25, 5, 17, and 26 and 15, 18 and 27 as well as 20-24 and 28 depend either directly or indirectly from corresponding independent claims 1, 3, 14, 19 and 29 and thus include all the recitations of their corresponding independent claims. Therefore, dependent claims 16 and 25, 5, 17, and 26, 14, 15, 18 and 27 as well as 20-24 and 28 are patentable for at least the same reasons given above for independent claims 1, 3, 14, 19 and 29.

Accordingly, Appellants respectfully requests reversal of the rejections of claims 1, 3, 5 and 14-29.

B. Dependent claim 5 is patentable over Lynn, Humes, Swift, Crawford and Reilly

As discussed above, Lynn, Humes, Swift and Crawford are deficient vis-à-vis independent claim 3, and Reilly does not make up for the deficiencies of Lynn, Humes, Swift and Crawford. Accordingly claim 5 is patentable at least by virtue of its dependency from independent claim 3. Appellants therefore respectfully requests reversal of the rejection of dependent claim 5.

C. Dependent claims 16, 17 & 24 are patentable over Lynn in view of Humes, Swift, Crawford and Blumenau

As discussed above, Lynn, Humes, Swift and Crawford are deficient vis-à-vis independent claims 1, 3 and 19, and Blumenau does not make up for the deficiencies of Lynn, Humes, Swift and Crawford. Accordingly, claims 16, 17 and 24 are patentable at least by virtue of their respective dependencies from independent claims 1, 3 and 19. Appellants therefore respectfully requests reversal of the rejection of dependent claims 16, 17 and 24.

D. Dependent claim 18 is patentable over Lynn in view of Humes, Swift, Crawford and the AAPA.

As noted above, Lynn, Humes, Swift and Crawford are deficient vis-à-vis independent claim 14, and the AAPA does not compensate for the deficiencies of Lynn, Humes, Swift and Crawford. Accordingly, claim 18 is patentable at least by virtue of its dependency from independent claim 14. Appellants therefore respectfully request reversal of the rejection of dependent claim 18.

E. Conclusion

Since none of the cited references, alone or in combination, teach or suggest all of the features recited in independent claims 1, 3, 14, 19 and 29, the cited references, either individually or in combination, fail to render independent claims 1, 3, 14, 19 and 29 obvious for the reasons described above. Claims 16, 25 and 5, 17, 26 and 15, 18, 27 and 20-24 as well as 28 depend either directly or indirectly from independent claims 1, 3, 14, 19, and 29, respectively, and thus include all of the recitations of their respective independent claims. Therefore, dependent claims 16, 25 and 5, 17, 26 and 15, 18, 27 and 20-24 as well as 28 are patentable for at least those reasons given above for the independent claims.

Accordingly, for all the reasons stated above, Appellants respectfully request that the rejections of claims 1, 3, 5 and 14-29 be reversed.

8. ***Claims Appendix.***

The claims currently on appeal are as follows:

1. (Previously Presented) A system for providing discretionary viewing control in displaying image data, comprising:

a display for displaying image data, the display comprising a plurality of pixels; and

an integrated circuit in connection with said display for processing said image data, wherein, for each of the plural pixels, said image data comprises at least first and second portions of image data that are linked together, the first portion including payload data and the second portion including metadata, wherein said payload data comprises content for the pixel and said metadata comprises a value selected from a predefined set of values which classifies the pixel independently from the other pixels, whereby, because each of the processable pixels are individually classified according to a particular metadata value selected from the predefined set of values, said integrated circuit is able to perform operations on individual pixels based on their metadata, said integrated circuit comprising:

a filter for obscuring the content of only a plurality of pixels that has a metadata value that exceeds a discretionary threshold value without preventing the display of the content of the remaining plurality of pixels that does not have a metadata value that exceeds the discretionary threshold value.

2. (Canceled)

3. (Previously Presented) A method for providing discretionary viewing control in displaying image data, comprising the steps of:

providing a display comprising a plurality of pixels;

receiving image data;

wherein, for each of the plural pixels, said received image data comprises at least first and second portions of image data that are linked together, the first portion including payload data and the second portion including metadata,

wherein said payload data comprises content for the pixel and said metadata comprises a metadata value selected from a predefined set of values which classifies the pixel independently from the other pixels;

supplying said received image data to an integrated circuit in connection with the display;

processing the content for each respective pixel based on the metadata value of each respective pixel;

obscuring the content of only a plurality of pixels that has a metadata value exceeding a discretionary threshold value, and

displaying the content of the remaining plurality of pixels that do not have a metadata value exceeding the discretionary threshold value.

4. (Canceled)

5. (Previously Presented) The method of claim 3, wherein the display is a display on a wireless terminal, and the step of supplying image data to the display comprises supplying said image data to the display on the wireless terminal.

6. (Withdrawn) A method for metering visibility of an advertisement, comprising:

providing a display with a plurality of pixels;

receiving data,

said received data including at least first and second portions of data that are linked together, the first portion including payload data and the second portion including metadata,

said payload data providing content to each of the plurality of pixels of the display independently, and said metadata identifying each respective pixel of the display independently, said identifying comprising classifying each respective pixel according to a particular metadata value selected from a predefined set of values;

supplying said received data to an integrated circuit in connection with the display;

processing the content for each respective pixel based on the identification of each respective pixel; and

periodically metering the number of pixels classified as advertisement by the metadata.

7. (Withdrawn) The method of claim 6, wherein the metering step comprises determining an advertising fee to charge to the advertiser based on the metering of the displayed portion of the advertisement.

8. (Withdrawn) The method of claim 7, wherein the advertisement comprises a portion that is not displayed, and the method further comprises charging the advertising fee based on the metered number of pixels that display the pixels classified as the advertisement multiplied by the length of time that the pixels classified as the advertisement are displayed without charging for the portion of the advertisement that is not displayed.

9. (Withdrawn) A method for providing an incentive to a player of a game, comprising;

providing a display having a plurality of pixels;

supplying data to an integrated circuit in connection with the display,

said data including at least first and second portions of data that are linked together, the first portion including payload data and the second portion including metadata,

said payload data providing content to each of the plurality of pixels of the display independently, and said metadata identifying each respective pixel of the display independently, said identifying comprising classifying each respective pixel according to a metadata value selected from a predefined set of values;

processing the content for each respective pixel based on the identification of each pixel;

opening a non-game item in response to a player activation of any of the pixels specified belonging to a non-game class; and

awarding a reward to the player upon viewing the non-game item.

10. (Withdrawn) The method of claim 9, wherein the non-game item comprises an advertisement.

11. (Withdrawn) The method of claim 10, wherein the step of awarding the reward comprises increasing the reward awarded based on the total number of the pixels classified as the advertisement as identified by the metadata.

12. (Withdrawn) The method of claim 10, wherein the step of awarding the reward comprises increasing the reward awarded based on the length of time the pixels display the advertisement as identified by the metadata.

13. (Withdrawn) The method of claim 9, wherein the game is a game played collaboratively by at least two players on the Internet.

14. (Previously Presented) An image data frame to be processed in an integrated circuit and displayed pixel-wise, comprising:

for each of a plurality of pixels in said image data frame, at least first and second portions of image data that are linked together, the first portion comprising payload data and the second portion comprising metadata;

wherein said payload data comprises content of the pixel independently, and said metadata comprises a metadata value selected from a predefined set of values, which classifies the pixel independently from the other pixels;

whereby, because each pixel is individually classified according to a particular metadata value selected from the predefined set of values, the content of only a plurality of pixels that has a metadata value that exceeds a discretionary threshold value is obscured from the user's view without preventing the display of the content of the remaining plurality of pixels that does not have a metadata value that exceeds the discretionary threshold value.

15. (Previously Presented) The image data frame of claim 14, wherein the content comprises multiple channels of content.

16. (Previously Presented) The system of claim 1, wherein the integrated circuit comprises:

means for determining a display metric, said display metric being the result of multiplying the number of pixels having a certain metadata value by the amount of time those pixels are visible on the display.

17. (Previously Presented) The method of claim 3, further comprising the step of:

determining a display metric, said display metric being the result of multiplying the number of pixels having a certain metadata value by the amount of time those pixels are visible on the display.

18. (Previously Presented) The image data frame of claim 14, wherein the payload data comprises a red channel, a blue channel, a green channel, a Z-buffering channel, and an alpha channel.

19. (Previously Presented) A system for displaying visual objects comprised of pixels, comprising:

a processing means for receiving an image data frame comprising a plurality of pixels which, in turn, comprise one or more visual objects, wherein a plurality of contiguous bits in the image data frame comprises pixel data for a single pixel, wherein the pixel data comprise a content field and a metadata field for the single pixel, wherein the metadata field comprises a value from a predefined set of metadata values, and wherein the metadata value indicates that the single pixel is part of a visual object within a particular category, said processing means comprising:

means for identifying pixels which comprise a visual object by their metadata fields;

wherein, because the pixels comprising an individual visual object can be identified within the image data frame, certain operations can be performed by the processing means only on the pixels forming an individual visual object separate from the pixels forming the remaining visual objects in the visual field.

20. (Previously Presented) The system of claim 19, wherein the processing means comprises hardware, software and/or firmware.

21. (Previously Presented) The system of claim 19, wherein the processing means comprises a graphics board, a browser of markup language documents, and/or an e-mail program.

22. (Previously Presented) The system of claim 19, wherein the particular categories comprise violent content, pornographic content, and advertisements.

23. (Previously Presented) The system of claim 19, wherein the processing means further comprises:

a filter for one of blocking and/or obscuring a visual object by obscuring each of a plurality of pixels forming said visual object, wherein each of the plural pixels forming said visual object has a metadata value which indicates that its pixel is part of a visual objects which must be blocked and/or obscured.

24. (Previously Presented) The system of claim 19, wherein the processing means further comprises:

a meter for determining a display metric, said display metric being the result of multiplying the number of pixels having a certain metadata value by the amount of time those pixels are visible on a display.

25. (Previously Presented) The system of claim 1, wherein obscuring the content of only a plurality of pixels comprises at least one of blurring, scrambling and displaying the pixels as black, showing only silhouette.

26. (Previously Presented) The method of claim 3, wherein obscuring the content of only a plurality of pixels comprises at least one of blurring, scrambling and displaying the pixels as black, showing only silhouette.

27. (Previously Presented) The image data frame of claim 14, wherein obscuring the content of only a plurality of pixels comprises at least one of blurring, scrambling and displaying the pixels as black, showing only silhouette.

28. (Previously Presented) The system of claim 19, wherein certain operations performed by the processing means only on the pixels forming an individual visual object

comprises at least one of blurring, scrambling and displaying the pixels as black, showing only silhouette.

29. (Original) A computer-readable medium for providing discretionary viewing control in displaying image data, the computer-readable medium being encode with a computer program, the computer program comprising:

program code for providing a display comprising a plurality of pixels;

program code for receiving image data;

program code for supplying said received image data to an integrated circuit in connection with the display;

program code for processing the content for each respective pixel based on the metadata value of each respective pixel;

program code for obscuring the content of only a plurality of pixels that has a metadata value exceeding a discretionary threshold value, and

program code for displaying the content of the remaining plurality of pixels that do not have a metadata value exceeding the discretionary threshold value;

wherein, for each of the plural pixels, said received image data comprises at least first and second portions of image data that are linked together, the first portion including payload data and the second portion including metadata; and

wherein said payload data comprises content for the pixel and said metadata comprises a metadata value selected from a predefined set of values which classifies the pixel independently from the other pixels.

9. ***Evidence Appendix.***

None.

10. ***Related Proceedings Appendix.***

None

CONCLUSION

For at least the foregoing reasons, Appellants respectfully request that the rejections be reversed.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605

Respectfully submitted,

Cory C. Davis

Cory C. Davis
Registration No. 59,932

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street,
Suite 4000
Charlotte, NC 28280-4000
Tel Atlanta Office (404) 881-7000
Fax Atlanta Office (404) 881-7777

CERTIFICATION OF ELECTRONIC FILING

I hereby certify that this paper is being filed via the Electronic Filing System (EFS) to the United States Patent and Trademark Office on the date shown below.

SMOORE
Shana Moore

1.9.08
Date

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON January 9, 2008.